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SUBJECT: War Crimes Ambassador Rapp visits DRC;
3mphasizes need for accountability

REF: (A) Kinshasa 1027; (B) Kinshasa 1023

11. (SBU) Summary: Ambassador at Large for War Crimes (S/WCI) Stephen Rapp visited the DRC from November 12-14 as part of a follow-on mission to Secretary Clinton's August visit. He interacted with a variety of Congolese and international actors in meetings with the Minister of Justice, the Vice Minister of Defense, UN officials, North Kivu's Vice Governor, and Congolese NGOs. At the North Kivu Vice Governor's, he met with the press and exhibited the latest Rewards for Justice posters. He also traveled to Kiwanja, the site of a massacre of local civilians by CNDP troops in November 2008, to commemorate that event and meet with survivors and members of the MONUC contingent based in the town. End comment.

12. (SBU) As a follow-up to Secretary Clinton's visit, S/WCI Rapp's mission to Goma was designed to assess and demonstrate U.S. engagement in efforts to combat the problem of continuing war crimes and human rights abuses, including sexual and gender-based violence committed by the Congolese military (FARDC) and other armed groups. He also sought to publicize the ongoing U.S. effort to bring major perpetrators of the 1994 Rwanda genocide to justice by offering "Rewards for Justice" to those who provide information leading to the arrest of certain high profile genocidaires wanted by the International Criminal Tribunal for Rwanda (ICTR). End summary.

Warm welcome and cold shoulder in Kinshasa

13. (SBU) On November 12, Ambassador Stephen Rapp, Special Envoy for War Crimes Issues, accompanied by Ambassador Garvelink, met with Minister of Justice Emmanuele Luzolo Bambi. Rapp emphasized the opportunity to work together on issues of accountability for those who have perpetrated war crimes especially at the senior military leadership level. He highlighted the cooperation by the GDRC with the ICC noting that those currently in The Hague are Congolese but there remains a profound need for a strong national justice system.

14. (SBU) Luzolo referenced the common commitment against war crimes by the two governments. He provided a long history of the justice system starting with the notion that the post conflict situation has created a fragile environment for the prosecution of war crimes. He emphasized the fact that he has been fighting for peace "every day" but has been hampered in his efforts by a lack of funding. According to Luzolo, a paradox exists within the international community. They want justice but they do not provide the means to provide it in the DRC. There is a desperate need for new equipment.

15. (SBU) Luzolo acknowledged there are problems between the GDRC and NGOs. "I am sorry to see misunderstandings between NGOs and the government. That kind of attack makes me ill at ease." He has invited NGOs to meet with him especially when they "angrily demand"

prosecutions. "They [NGOs] are needed, they are necessary to keep us on the right path." Luzolo asserted that human rights are not possible without justice. He promised a more thorough discussion with Rapp when they are in The Hague together.

¶16. (SBU) Luzolo shared with Rapp the comments he [Luzolo] made to Anneke Van Woudenberg in an earlier meeting. Luzolo said that the international community has a right to demand the arrest of Bosco Ntaganda but that it is not possible to do so at this stage. He reiterated that the GDRC is going to arrest him sometime and the standing position is to collaborate with the ICC, but challenges remain. He agreed that military justice needs to be reformed.

¶17. (SBU) In a meeting with Vice Minister of Defense Oscar Masamba, Rapp reassured the Vice Minister that he was there to begin a dialogue and a relationship of cooperation with the Ministry of Defense and the GDRC as a whole. He reiterated the importance of accountability especially for high-ranking military officials. Masamba stated that although reinforcement of accountability and war crime prosecution is needed, there are encouraging signs as well. In order to strengthen the system, financial resources and political will are required. Masamba told Rapp that the current system, in which judges need to be of higher rank than those being prosecuted, will be eliminated. When Rapp pressed for more specific details regarding the role of the ICC and cases like Ntaganda, Masamba did not provide a substantive reply, rather promising to report to the Minister of Defense. He further stated that he did not have details about the "FARDC 5," but added that the Minister of Defense could provide these in future conversations.

UN Views

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¶18. (SBU) In Goma, representatives from several MONUC offices briefed Ambassador Rapp on the ongoing situation in the Congo and MONUC activities. Ambassador Rapp raised USG questions about actions such as MONUC support for the FARDC's Kimia 2 military operation against the FDLR and the sudden emptying of internally displaced persons (IDP) camps around Goma in September. Rapp engaged with several MONUC representatives in Goma, including MONUC North Kivu Head of Office Hiroute Guebre Sellassie, Regional Coordinator for the Joint Human Rights Office Raphael Yoho, Civil Affairs Head of Office Edem Blege, MONUC Eastern Coordination Acting Deputy Chief of Staff Lieutenant Colonel Charles Armstrong and Stabilization Team Leader Spyros Demetriou.

¶19. (SBU) The UN briefings touched on a number of issues and combined to provide a good overview of the current situation:

-- North Kivu Head of Office Sellassie spoke of the complexities of the MONUC presence in the DRC--to operate effectively MONUC needs both the good will of the host government and support of the UN member states. After ten years in the Congo, MONUC has had some success, but it would have been more effective if UN member states had been more willing to pressure Kinshasa and other states in the region. She did not believe the government was serious about addressing some key issues, including security sector reform, refugee return, even peacemaking efforts; it lacks both the will and the capacity.

-- UN officers (primarily Yoho and Blege) described the evolving IDP situation, including the sudden evacuation of over 60,000 people from the IDP camps near Goma in September. They said that some 800,000 North Kivu IDPs had returned to their homes since the Kinshasa-Kigali accord in January, mostly to Kitchanga, Kiwanja and Masisi. Some 900,000 IDPs remain in the province, the vast majority of who have relocated relatively close to their homes. Several push and pull factors contributed to the closure of the camps near Goma where 110,000 were housed at the peak of the crisis: camp surveys indicated some 80% of IDPs in Goma said they thought conditions had improved sufficiently to return home; UNHCR thought most IDPs could return and wanted to consolidate the camps and limit populations to the most needy; politicians, notably former North Kivu governor

Eugene Serifuli, encouraged IDPs to return home by warning them that if they did not, then Rwandan Tutsi refugees would return to take their land; IDPs moved quickly to take advantage of "return packages" of supplies while they were available. Most have not yet gone all the way home but have relocated to "secondary points of displacement" near their homes after collecting their return packages where they are waiting until conditions improve.

-- The IDP returns are being stimulated in some areas by Congolese politicians who are hyping the return of Congolese Tutsi refugees from Rwanda who are reportedly crossing clandestinely at night in an organized fashion. UN officers strongly believed this movement is indeed occurring. UNHCR reportedly believes that some 12,000 people have clandestinely crossed from Rwanda, but refuses to describe them as refugees because camp populations do not appear to have changed; the MONUC military G2 strongly embraces that figure. The returnees Qthe MONUC military G2 strongly embraces that figure. The returnees are reportedly mostly heading toward Mushake, Kichanga and Kirolirwe in Masisi district. Some have speculated that they might be Congolese Tutsis who went to Rwanda intending to stay, but have since decided to return home--or are being pushed to go.

-- Local chiefs strongly oppose the movement of these refugees, which they believe is related to the issue of land-grabbing by ex-CNDP integrated into FARDC. Ex-CNDP FARDC moved into the Bisie mines and violently pushed civilians, primarily Hutu and Hunde, from areas around Nyabiondo and Lukweti. UN Joint Human Rights teams who were prevented by hostile Mai Mai groups from investigating reports that ex-CNDP had killed hundreds in the Nyabiondo area in October stumbled across solid evidence of massacres in nearby Lukweti (ref A).

-- Fear that ex-CNDP/Tutsi will move back to their land has fueled the growth of Mai Mai groups to defend locals against the outsiders, according to UN officials. Mai Mai are also disenchanted by their inability to integrate into the FARDC at ranks they consider appropriate and resent the influence of ex-CNDP in the army. Major active, unintegrated groups in the area include Janvier's ACPLS (Hunde), LaFontaine's PARECO group (Nande), and Mai Mai Kifuafua (Tembo, Nyanga, etc). The ACPLS appears to be the most powerful of these at the moment and is notable for its hostility to FARDC and MONUC, its working relationship with FDLR in the area and its good ties with (non-Tutsi) local civilians (ref B).

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-- There was an interesting difference of emphasis between Blege from Civil Affairs and Yoho from the Joint Human Rights Office, who together met with the Rapp group. Yoho believed that FDLR crimes were worse than the CNDP's, whereas Blege noted that the FDLR's worst massacre, at Busurungi in May was immediately preceded by a massacre of Hutu civilians by FARDC at nearby Shalio.

-- MONUC North Kivu Head of Office Sellassie expressed shock at the problem of gender and sexually based violence throughout the DRC, even in the large parts of the country not affected by the war or instability. This, she thought, might be a question for ethnologists. Ambassador Rapp indicated that the problem might be the lack of an effective justice system because when people know they will be punished for such behavior, they are less likely to do it. Sellassie disagreed. Other countries in Africa lack strong, formal legal institutions, but we do not see such violence. This, she said, is a puzzle we do not understand. Rapp noted that when effective legal institutions were restored in Liberia and Sierra Leone, criminal violence dropped.

North Kivu Vice Governor Luhaichirwa

110. (SBU) In his meeting with Vice Governor Feller Luhaichirwa, Ambassador Rapp spoke of USG concern about violence against civilians and USG willingness to cooperate with Congolese authorities on justice issues. Luhaichirwa, who is an ethnic Hunde, said that the situation in North Kivu had in many ways improved from the nadir of the early 2000s. The political arrangements of recent

months, including the detente between Kinshasa and Kigali and the integration of the CNDP and PARECO into the national army had marked a step forward; now the FDLR, which had caused so much instability in the past, was everyone's common enemy. He recognized that crimes had been committed by elements in the army in the ongoing operations against the FDLR, but the command had made every effort to arrest perpetrators of crimes against civilians; he said over 500 FARDC criminals had been arrested since March-April and are now being housed in a prison designed to hold 300.

¶11. (SBU) Luhaichirwa's main theme -- "just a reflection," as he put it -- was the need for economic development to give the hard-working Congolese population hope and reason not to fight one another over land and resources. North Kivu needed international investment to build roads and schools, to develop electricity and gas power generation, and to improve the health system. The international community had to follow through on its promises to pay demobilized soldiers. He emphasized that with economic development investment to the tune of ten billion dollars, the economy would be able to provide employment for all Congolese. Even Rwandans, who had been brought to Congo by the Belgians to work in agriculture and the mines, would be able to find employment. With money, with investment, with economic development, all of Congo's problems would be solved.

¶12. (SBU) Ambassador Rapp agreed that economic development was of key importance, but also noted that is difficult to find people willing to invest in violent, unstable areas where people could not be safe.

Meet the Press and Rewards for Justice

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¶13. (SBU) Immediately after their session, Rapp and the Vice Governor met with the press outside the Vice Governor's office. Rapp spoke briefly of his mission and of USG willingness to cooperate with Congolese and North Kivu authorities on war crimes/justice issues, and took several questions. One question implied that the U.S. was being hypocritical when Special Advisor Wolpe called for General Bosco Ntaganda's arrest and transfer to the ICC when the US did not even recognize the ICC. Rapp responded that the United States had consistently called for Bosco to be brought to justice for his alleged involvement in war crimes, but that this was a ultimately an action to be taken by sovereign Congolese authorities. Regarding the US relationship with ICC, Rapp said the U.S. had cooperated with the ICC in the past, in Sudan for instance, and that the Obama administration was in the process of defining the modalities of future cooperation. Ambassador Rapp also took the opportunity to publicize the "Rewards for Justice" program; journalists and Congolese officials eagerly grabbe a number of the latest "wanted posters" handed ut. Local staff at the U.S. Goma residence told us the Rapp press conference and Rewards for Justice received good play on the UN's Radio Okapi and on local Congolese radio.

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Human Rights NGOs

¶14. (U) In Kinshasa, Mirna Adjami, Country Director for International Center for Transitional Justice, organized a dinner with several members of civil society dedicated to justice and the media. They pushed the idea of a mixed tribunal in the DRC and were also very interested in Rapp's ideas for mixed investigative teams.

¶15. (SBU) Human Rights Watch Goma researcher Ida Sawyer organized a meeting of eight representatives from civil society and local human rights-oriented NGOs. They were generally critical of Operation Kimia 2, which they said hurt civilians more than the FDLR. They criticized MONUC for supporting the military operation and for not doing enough to prevent FARDC abuses. One representative, Raphael Wakenge from Bukavu, South Kivu, asserted that Kimia 2 was illegal because it was not approved by parliament.

¶16. (SBU) A representative of NGO "Synergie Des Femmes" (Women in Synergy) complained of the problems of gender-based violence in North Kivu. There is no one to call for help as the police are corrupt or non-existent, perpetrators are almost never brought to justice, and there is minimal access to health care to treat injuries related to sexual violence. Others reiterated her complaint about impunity: past crimes are not or prosecuted in DRC and there is no international mechanism to do so since the ICC is only authorized to prosecute crimes committed since 2002.

¶17. (SBU) Following on this thought, Wakenge and others proposed a special mixed tribunal, which would be a national judicial institution comprising elements from the government and civil society and supported temporarily by international staff. Such a commission, which was also recently proposed by Human Rights Watch, would be able to deal with a broad range of crimes, including those that would not be heard by the ICC because they occurred before 2002 or other reasons.

¶18. (SBU) In response, Ambassador Rapp asked if the Congo had made progress in establishing a Truth and Reconciliation Commission, as called for in the Sun City agreement of 2002. He was told that the idea had been virtually abandoned. Rapp said the trouble with the mixed commission is that it would be difficult to find international funding as the Europeans in particular supported the establishment of the ICC in order to have a permanent mechanism in place so that expensive "special courts" as established for Yugoslavia, Rwanda and Sierra Leone would no longer be necessary. He concluded by speaking about the Rewards for Justice program and passing out some of the wanted posters.

Kiwanja--MONUC

¶19. (SBU) Early the following morning, the Rapp delegation headed off to Kiwanja, the site of a major massacre of some 150 civilians at the hands of the CNDP on November 4-5, 2008. The visit was intended to signal that the U.S. remembered the massacre and was concerned about continuing human rights abuses at the hands of the FARDC, including by units dominated by ex-CNDP. He also met with members of INBATT 2, the Indian-manned MONUC battalion stationed at Kiwanja, which had been unwilling or unable to protect civilians being slaughtered literally a stone's throw from the front gate of their camp.

¶20. (SBU) The delegation met with officers from the battalion who had worked hard to put structures in place to prevent another Qhad worked hard to put structures in place to prevent another massacre. The Indians were now making an effort to get out of the base, make contact with civilians, and build trust so as to understand the local situation and thus not to be blindsided by events in the future. To build ties, it was necessary to demonstrate to civilians that MONUC has "the will, means, and ability" to protect them. It was also necessary to listen carefully to civilians while displaying a "high tolerance for nonsense", i.e. recognizing that false alarms and conspiracy theories would likely be mixed in with good information. INBATT 2 had in the last year begun establishing Temporary Operating Bases (TOB) in which a platoon-sized unit would deploy for 1-2 weeks to an area that intelligence indicated might be threatened by banditry or rebel activity; this has become a model for the rest of MONUC. The INBATT 2 officers indicated that in their area of responsibility FDLR elements are active west of Rutshuru/Kiwanja in Virunga Park as well toward the northeast in the direction of Ishasha and Nyamilima.

Kiwanja: civil society and massacre survivors

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¶21. (SBU) The Rapp delegation also met in Kiwanja with a group of civil society representatives and then with a group of survivors of the massacres the year before. The civil society representatives described the tensions in Kiwanja as basically a conflict between Tutsis from the CNDP military and Hutu civilians, though much of Kiwanja is also ethnic Nande. They complained about impunity and

how people had not been punished for their crimes, specifically mentioning Bosco Ntaganda, who commanded the CNDP troops during the Kiwanja killings. They complained that the presence of the FDLR destabilized Congo, but also blamed Rwanda for its unwillingness to allow an inter-Rwandan dialogue that might encourage the FDLR to return.

¶22. (SBU) The survivors of the Kiwanja massacre told a series of horrifying tales. In almost all cases, CNDP moved through the town, knocking on doors and killing, possibly because they suspected the residents were hiding anti-CNDP fighters. Each story was worse than the one before. A young mother with an infant said that she lived only because one of the soldiers told the others that, while they should kill everyone else in the house, if they killed the mother with the baby they would be cursed. Notably, one of the victims -- a man crippled by gunshot wounds in an arm and a leg -- said he had been shot in August 2009, not during the Kiwanja massacres. Members of the Rapp delegation were struck by the follow-on effects of the disaster that lingered in Kiwanja a year later: survivors were often rendered homeless; they not only lost their property but also the family breadwinners; the wounded, who were sometimes badly maimed, lost the ability to generate income until they recovered sufficiently to return to work.

Kimia 2 North Kivu Commander Colonel Bobo Kakudi

¶23. (SBU) The Rapp delegation also met with Colonel Bobo Kakudi, the North Kivu Kimia 2 commander to discuss Kimia 2 and issues of military justice. Colonel Kakudi readily admitted that FARDC had poor ties with civilians in some areas of North Kivu, especially Lubero and Masisi districts. He said that he was trying to deal with the problem by building ties to politicians and civil society leaders to "sensitize" them to FARDC and improve communications between FARDC and civilian communities. FARDC still had a long way to go in this effort, but he said military integration bringing in the CNDP and Mai Mai groups to FARDC was generally going well. Kakudi noted that he, a member of the "old" FARDC, was the North Kivu commander, while his deputy was ex-CNDP and the head of operations was ex-PARECO. He said the high command was a melange and had learned to work well together. True, some Mai Mai had not been integrated, but this was because their leaders generally wanted too high a rank. "[Mai Mai leader] Janvier wants to integrate as a major general -- I am a colonel and I command the Kimia 2 operation in North Kivu."

¶24. (SBU) Kakudi said that Operation Kimia 2 had made major progress in military operations against the FDLR, but that the ultimate solution to the FDLR problem was "difficult" and a question for the politicians. Many FDLR are tired of living in the bush for years, but fear returning to Rwanda. To get them back, they need "sensibilization" and perhaps negotiations with the Rwandan government. Perhaps it would be possible to resettle some of them elsewhere in the DRC or in third countries, but the international community has labeled them "terrorists", which makes a solution difficult.

¶25. (SBU) In response to Rapp's queries, Kakudi said that the FARDC had been increasing efforts to promote military justice, improve discipline and punish criminal behavior. When asked how many FARDC had been jailed for criminal behavior since March-April, Kakudi said he did not know exactly, but said "a big number, several hundred" had been "sent to Kinshasa." He said that, ultimately, responsibility for discipline lay with "the colonel in charge." Referring to a statement by President Kabila, Kakudi said the FARDC had embraced a policy of "zero tolerance" for criminal behavior by military elements.

¶26. (U) Ambassador Rapp was unable to clear this cable. S/WCI's Todd Anderson, who traveled with him, did/did clear.

GARVELINK